IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.4231 OF 2005

Ms.Seema Vasant Ketkar,
age 42 years, residing at B/12, 3rd Floor,
Om-Mayuresh Society, Mithagar Road,
Mulund (East), Mumbai-400 081. ...Petitioner.

Vs.

-1. The Principal, Dyanasadhana College,
Municipal School No.18, Behind
TELCO, Off Highway, Thane-400 604.

-2. University of Mumbai,
through its Registrar, D. N. Road,
Fort, Mumbai-400 001.

-3. Joint Director of Higher Education,
Mumbai Region, Mahapalika Marg,
Dhobi Talao, Mumbai-400 001.

-4. State of Maharashtra,
Through its Department of Higher &
Technical Education, Mantralaya
Annexe, Mumbai-400 032. ... Respondents.

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Mr. Mihir Desai for the Petitioner.
Mr. R. S. Apte with Mr. M.S. Lagu for Respondent No.1.
Mr. R.A. Rodrigues for Respondent No.2.
Mr. V.S. Gokhale, AGP for Respondent Nos.3 and 4.

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CORAM : F.I REBELLO AND
DR.D.Y.CHANDRACHUD, JJ.

September 21, 2005.

ORAL JUDGMENT (PER F.I. REBELLO, J.):

Rule. Heard forthwith.

2. In this case also, by an order dated 8th August 2005, the Government was granted further time to file reply with the further direction that if the reply is not filed, the petition will be proceeded with in the absence of any reply. The University has filed the reply through Shri Dinesh Kamble, Deputy Registrar.

3. The Petitioner was appointed as a full time lecturer in the Foundation Course from 16th July 1992 by following the prescribed procedure. The Petitioner holds the qualifications of M.A. (First Class) and has also passed SET Examination. The post occupied by the Petitioner was advertised for six years and has been regularly approved by the University. The College forwarded the proposal for dereservation of the post of the Petitioner on 21st March 1995. The University required some procedural formalities to be completed which were completed and forwarded to the University. The College received a letter on 7th April 1998 setting out that the proposal for dereservation had been sent to the Government for its approval. The correspondence continued. As there was failure on the part of the State

Government to take decision, the Petitioner filed Writ Petition No.2346 of 2002 which was dismissed on 28th April 2003. An order was passed directing the Respondents to decide the Petitioner's claim for dereservation within a period of two months. It appears that the State Government by a letter dated 10th June 2004 intimated that the post could not be dereserved. In view of that, the present petition.

4. In the affidavit of Dinesh Kamble, it is set out that the University had submitted the proposal of dereservation to the State Government for approval. The State Government, however, by a letter dated 10th June 2004 have intimated that the post could not be dereserved.

5. The very issues which arose in this petition, were also issues in Writ Petition No.4239 of 2005. We have considered the letter dated 10th June 1994 and the reference to Government Resolution dated 18th October 1997. We have noted that the case of the Petitioner for dereservation was much before the Government Resolution dated 18th October 1997 and consequently the Petitioner had a right to be considered.

6. For the same reasons which we have given while disposing of Writ Petition No.4239 of 2005, the present petition also has to be allowed. In the light of that the petition is made absolute in terms of prayer clause (a)(i), (ii) and (iii) as also prayer clause (b).

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)